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Prepared Meats, Inc. d/b/a Prepared Meat Sales, Inc. and United Food and Commercial Workers, Local 174, affiliated with United Food and Commercial Workers International Union, AFL-CIO. Case 29-CA-20121-1

February 5, 1997

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS BROWNING
AND HIGGINS

Upon a charge filed by the Union on July 5, 1996, the General Counsel of the National Labor Relations Board issued a complaint on October 31, 1996, against Prepared Meats, Inc. d/b/a Prepared Meat Sales, Inc., the Respondent, alleging that it has violated Section 8(a)(1) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent failed to file an answer.

On January 13, 1997, the General Counsel filed a Motion for Summary Judgment with the Board. On January 15, 1997, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated November 27, 1996, notified the Respondent that unless an answer were received by December 6, 1996, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a New York corporation, with its principal office and places of business located at 1330 and 1339 Utica Avenue, Brooklyn, New York, has been engaged in the retail and wholesale processing and sale of chicken. During the 12-month period preceding issuance of the complaint, a representative period, the Respondent, in the course of its operations, derived gross revenues in excess of \$500,000 from its retail operations at its New York facilities and purchased and received at its wholesale operations at 1330 Utica Avenue, chickens and related products valued in excess of \$50,000 directly from points outside the State of New York. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

About June 27, 1996, the Respondent, in the presence of its employees, threatened an agent of the Union with physical harm when the agent attempted to meet with said employees.

CONCLUSION OF LAW

By the acts and conduct described above, the Respondent has been interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

ORDER

The National Labor Relations Board orders that the Respondent, Prepared Meats, Inc. d/b/a Prepared Meat Sales, Inc., Brooklyn, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Threatening an agent of the United Food and Commercial Workers Local 174, affiliated with United Food and Commercial Workers International Union, AFL-CIO, in the presence of its employees, with physical harm when the agent attempts to meet with the employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days after service by the Region, post at its facilities in Brooklyn, New York, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 29, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facilities involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since July 5, 1996.

(b) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region

attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. February 5, 1997

William B. Gould IV, Chairman

Margaret A. Browning, Member

John E. Higgins, Jr., Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT threaten an agent of the United Food and Commercial Workers Local 174, affiliated with United Food and Commercial Workers International Union, AFL-CIO, in the presence of our employees, with physical harm when the agent attempts to meet with our employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

PREPARED MEATS, INC. D/B/A PRE-
PARED MEAT SALES, INC.

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."